

**REMARKS****The Office Action**

The Office Action dated December 12, 2005 has been carefully considered and it is noted with appreciation that the subject matter of claim 5-7, 10, 11, 19-24, and 34-36 is allowable. For the latter purpose, claims 5, 10, 19, and 34 are presented herein in independent form for allowance together with claims 6 and 7 which are dependent from claim 5, claim 11 which is dependent from claim 10, claims 20-24 which are dependent from claim 19 and claims 35 and 36 which are dependent from claim 34.

Claims 1, 3, 4, 8, 9, 12-18, 25-33, and 37-62 remain for consideration and it is respectfully submitted for the reasons set forth hereinafter that the remaining claims patentably distinguish from the prior art of record and are allowable. Accordingly, reconsideration and allowance of the remaining claims is respectfully solicited.

Claims 1, 3, 4, 8, 9, 12, 15-18, 25-27, 33, 37-51, 54-57, and 59-61 of the remaining claims stand rejected under 35 U.S.C. §102(b) as being anticipated by the 1999 catalog of The Ridge Tool Company cited by applicants and the disclosure which is described on page 1 of the specification of the application. This rejection is respectfully traversed.

For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference, and these elements must be arranged as recited in the claim. *In re: Bond*, 15, USPQ 2d 1566, 1567 (CAFC 1990). Further, claims reciting a function not shown in a prior art reference are not anticipated by that reference. *Ex parte Research and Manufacturing Company, Inc.*, 10 USPQ 2d 1657, 1654 (BPAI 1989) citing *In re Mott*, 194 USPQ 305, 307 (CCPA 1977).

Submitted herewith is the Declaration of the inventor Jonathan M. Iwamasa under 37 CFR 1.132 which addresses the structure of the 418 Oiler shown in The Ridge Tool Company catalog dated 1999 which is relied upon by the examiner in rejecting those of the remaining claims referred to hereinabove. As set forth in the specification of the application at page 1, lines 4-20, and as stated in the Affidavit of Mr. Iwamasa with reference to drawings of the 418 Oiler submitted with the Affidavit as Exhibits A-D, the 418

Oiler shown in The Ridge Tool catalog includes a round metal bucket BK and a metal drip pan DP. Bucket BK has a flat bottom B and a rolled peripheral rim R. A bulkhead fitting F for connecting a hose and pump to the bucket is mounted on the circular sidewall of the bucket and has an inlet opening I and an outlet opening O extending at right angles to one another, and the outlet extends vertically upwardly and is internally threaded to receive the pump hose. Drip pan DP has a downwardly open peripheral flange FL adapted to rest on rim R, and the drip pan is adapted to be removably mounted on the rim of the bucket by a plurality of over-center latches L having mounting plates MP spotwelded on the bucket. Further, the bucket is provided with a bail BL having its opposite ends pivotally associated with metal bail mounting supports MS which are welded to the bucket, and the drip pan DP includes a pair of metal handles H welded thereon for lifting the pan from the bucket.

As further set forth in the Declaration of the inventor Iwamasa, and shown in Exhibits A-D thereof, the 418 Oiler does not include the following structural elements set forth, alone or in combination in the rejected claims: 1) means interengaging during relative sliding displacement between the bucket and pan to releasably interengage the bucket and pan against separation; 2) a bucket of plastic material including bail supports each comprising a wall member of plastic material on the bucket and a bail plate of metal on the wall member; 3) diametrically opposed first locking members on the pan and diametrically opposed second locking members on the bucket; 4) a recess in the bottom wall of the bucket extending radially toward the side wall of the bucket and a bulkhead fitting extending through the side wall of the bucket and having an inner end at the radially outer end of the recess; 5) a plurality of inwardly extending recesses in the side wall of the bucket and circumferentially spaced apart thereabout; 6) a plurality of first locking members extending outwardly of the upper end of the pan and a plurality of second locking members extending inwardly of the upper end of the bucket with a portion of a second locking member overlying at least a portion of a first locking member when interengaged therewith; 7) a stop on one of the second locking members for limiting sliding displacement relative thereto in the direction of interengagement; 8) at least one group of circumferentially

adjacent ribs on the rim of the pan; and, 9) a bulkhead mounting recess in the side wall of the bucket adjacent the bottom wall thereof.

Claims 1, 25, 49, and 57 of the claims rejected under 35 U.S.C. §102(b) as being anticipated by Ridge Tool's 418 Oiler shown in The Ridge Tool Company catalog dated 1999 are independent claims. Claim 1 sets forth that applicants' pan has an upper end overlying and slidable circumferentially relative to the upper end of the bucket, and the claim is limited to the bucket and pan including means interengaging during relative sliding displacement therebetween to releasably interengage the bucket and pan against separation. As is clear from the Iwamasa declaration and Exhibits A-D thereof, the 418 Oiler in the 1999 Ridge Tool catalog does not include this structural element and does not include any element or elements providing the interengaging function set forth in claim 1. Therefore, and in accordance with the foregoing cited legal authority, claim 1 patentably distinguishes from the cited 418 Oiler and is allowable together with claims 3, 4, 8, 9, and 12-18 which are dependent therefrom. Moreover, as is clear from the declaration of Mr. Iwamasa, each of the latter group of claims includes a structural element or elements which the 418 Oiler does not include, whereby these claims further distinguish patentably from the cited 418 Oiler.

Independent claim 25 requires that the pan of applicants' container include first locking members extending radially outwardly from the rim thereof and that the bucket includes second locking members extending radially inwardly of the first locking members. Further, claim 25 requires that the pan be circumferentially displaceable relative to the bucket to selectively position the first locking members in engaging and disengaging relationship with the second locking members to respectively interengage the bucket and pan against separation and release the pan for separation from the bucket. Again, as is clear from the Declaration of Mr. Iwamasa and Exhibits A-D thereof, the cited 418 Oiler does not include first and second locking members as structurally defined in claim 25 and does not include any interengaging arrangement providing the function defined with respect to the locking members. Therefore, and in accordance with the foregoing cited legal authority, claim 25 patentably distinguishes from the cited 418 Oiler and is allowable

together with claims 26, 29, 33, and 37-48 which are dependent therefrom. Furthermore, as is clear from the declaration of Mr. Iwamasa, each claim in the latter group includes a structural element or elements which are not included in the cited 418 Oiler, whereby these claims further patentably distinguish from the latter.

Independent claim 49 requires the first and second locking members referenced above with regard to claim 25 and sets forth additional structural detail regarding locking member supports on the bucket for the second locking members whereby claim 49 patentably distinguishes from the cited 418 Oiler for the same reasons set forth hereinabove with regard to claim 25. Accordingly, claim 49 is allowable together with claims 50, 51, 54, 55, and 56 which are dependent therefrom. Furthermore, each of the latter claims includes a structural element or elements which, as is clear from the Iwamasa declaration, are not included in the 418 Oiler, whereby these claims further patentably distinguish from the latter.

Independent claim 57, as amended herein, sets forth that the bulkhead fitting on the side wall of the bucket has an inlet and an outlet extending at an acute angle to the inlet and, further, requires that the outlet extends outwardly and upwardly of the side wall of the bucket at an acute angle to horizontal. As is clear from the Declaration of Mr. Iwamasa and Exhibits B and C thereof, the outlet of the bulkhead fitting on the cited 418 Oiler extends at a right angle to the inlet and extends vertically upwardly relative to horizontal. Therefore, in accordance with the foregoing cited legal authority, claim 57 patentably distinguishes from the cited 418 Oiler and is allowable together with claims 59-61 which are dependent therefrom. Furthermore, each of the latter claims sets forth a structural element or elements which are not included in the cited 418 Oiler, whereby these claims further patentably distinguish from the latter.

Claims 13, 14, 28-32, 52, 53, 58, and 62 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the cited 418 Oiler. Claims 13 and 14 are dependent from claim 1 and, therefore, patentably distinguish from the 418 Oiler for the reasons set forth hereinabove with regard to claim 1. Claims 28-32 are dependent from claim 25 and, therefore, patentably distinguish from the cited 418 Oiler for the reasons set forth

hereinabove with regard to claim 25. Claims 52 and 53 are dependent from claim 49 and, therefore, patentably distinguish from the cited 418 Oiler for the reasons set forth hereinabove with regard to claim 49. Claims 58 and 62 are dependent from claim 57 and, therefore, patentably distinguish from the cited 418 Oiler for the reasons set forth hereinabove with regard to claim 57. With further regard to claims 13, 14, 28-32, 52, 53, 58, and 62, each of these claims sets forth a structural element or elements which are not included in the cited 418 Oiler as is clear from the Declaration of Mr. Iwamasa and Exhibits A-D thereof. Moreover, it is well accepted that the mere fact that a prior art reference could be modified does not make the modification obvious unless the prior art suggests the desirability of the modification. See, *In re: Gordon*, 221 USPQ 1125, 1127 (CAFC 1984). The alleged obviousness with respect to modifying the cited 418 Oiler to include the structural elements set forth in these claims is the result of improper hindsight reconstruction of the 418 Oiler based on applicants' disclosure as opposed to anything which would be suggested or obvious to one skilled in the art based on the cited 418 Oiler alone.


### CONCLUSION

It is respectfully submitted for the reasons set forth hereinabove that the remaining claims 1, 3, 4, 8, 9, 12-18, 25-33, and 37-62 patentably distinguish from the prior art and are allowable, whereby reconsideration and allowance is respectfully solicited.

Respectfully submitted,

FAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLP


2-10-06  
Date

  
E. Kent Daniels, Jr., Reg. No. 19,598  
1100 Superior Avenue, Seventh Floor  
Cleveland, OH 44114-2579  
216-861-5582

CERTIFICATE OF MAILING OR TRANSMISSION

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

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